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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|-------------------------------|---------------------|
| 10/615,557 | 07/08/2003 | Saturo Yamada | JP919970025US2(RE) (473-5) | 8603 |
| 75702 | 7590 | 07/25/2008 | | EXAMINER |
| Keusey, Tutunjian & Bitetto, P.C. 20 Crossways Park North Suite 210 Woodbury, NY 11797 | | | | KUMAR, SRILAKSHMI K |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2629 | |
| | | MAIL DATE | DELIVERY MODE | |
| | | 07/25/2008 | PAPER | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | |
|------------------------------|--|--------------------------------------|
| Office Action Summary | Application No. 10/615,557 | Applicant(s) YAMADA ET AL. |
| | Examiner SRILAKSHMI K. KUMAR | Art Unit 2629 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 10 April 2008.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-14 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____
- 5) Notice of Informal Patent Application
 6) Other: _____

DETAILED ACTION

The following office action is in response to the amendment filed on April 10, 2008. Claims 1-14 are pending. Claims 8, 9 and 13 have been amended.

Reissue Applications

1. This application is objected to under 37 CFR 1.172(a) as lacking the written consent of all assignees owning an undivided interest in the patent. The consent of the assignee must be in compliance with 37 CFR 1.172. See MPEP § 1410.01.

A proper assent of the assignee in compliance with 37 CFR 1.172 and 3.73 is required in reply to this Office action.

As the application has a new assignee, a new consent is required.

2. The reissue oath/declaration filed with this application is defective (see 37 CFR 1.175 and MPEP § 1414) because of the following: As applicant has amended claim 8, this is not covered under the prior oath/declaration.

3. In accordance with 37 CFR 1.175(b)(1), a supplemental reissue oath/declaration under 37 CFR 1.175(b)(1) must be received before this reissue application can be allowed.

Claims 1-14 are rejected as being based upon a defective reissue Oath under 35 U.S.C. 251. See 37 CFR 1.175. The nature of the defect is set forth above.

Receipt of an appropriate supplemental oath/declaration under 37 CFR 1.175(b)(1) will overcome this rejection under 35 U.S.C. 251. An example of acceptable language to be used in the supplemental oath/declaration is as follows:

“Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without any deceptive intention on the part of the applicant.”

See MPEP § 1414.01.

Priority

With respect to claiming foreign priority, according to MPEP 1417, “A claim for the benefit of an earlier filing date in a foreign country under 35 USC 119 (a)-(d) must be made in a reissue application, even though such a claim was previously made in the application for the original patent to be reissued.” Therefore, in order to claim foreign priority, Applicant must submit a separate request for foreign priority in this reissue application.

Amendments to a Reissue Application

With respect to amendments to the reissue claims, pursuant to MPEP 1453 and 37 CFR 1.173, amendments must include the entire text of each claim being changed by such amendment and each claim being added. Amendments must include claim status identifiers and mark up of the claims. Amendment mark up of the claims is as follows:

- (1) the matter to be omitted by reissue must be enclosed in brackets;
- (2) the matter to be added by the reissue must be underlined, including all newly added claims (i.e., any claim not original to the patent must be completely underlined, whereas, any amendment to original claims, only added limitations must be underlined).

Therefore, within this instant reissue application, original claim 8 should show brackets to the cancelled limitations and underlines to the added limitation. Newly added claims 9-14 should be completely underlined.

Response to Arguments

The application is in conditions for allowance with the exception of the above listed formal matters. Applicant is directed to contact the undersigned with any questions with regards to the formal matters.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SRILAKSHMI K. KUMAR whose telephone number is (571)272-7769. The examiner can normally be reached on 7:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sue Lefkowitz can be reached on 571 272 3638. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Srilakshmi K Kumar/
Primary Examiner
Art Unit 2629